IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 12TH JUNE 2006 / 22ND JYAISHTA, 1928

OP.No. 3692 of 1997(M)
---

PETITIONER:
---

T.S. SEETHARAMAN, SASTHA MADOM, PULAKKOTTUKARA, CHITTISSERI POST, TRISSUR DIST.

BY ADV. SRI.P.RAMAKRISHNAN NAIR

RESPONDENTS:
---

1. THE DISTRICT COLLECTOR, THRISSUR.

2. THE EXECUTIVE ENGINEER, IRRIGATION DIVISION, CHEMBUKKAVU, THRISSUR.

3. THE TAHSILDAR, MUKUNDAPURAM TALUK OFFICE, THRISSUR.

4. THE PANCHAYAT PRESIDENT, NANMANIKKARA GRAMA PANCHAYATH, MUKUNDAPURAM TALUK, THRISSUR DIST.

ADDL.5. BOARD OF REVENUE, THIRUVANANTHAPURAM, REPRESENTED BY ITS SECRETARY.

ADDL.6. STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY, THIRUVANANTHAPURAM.

ADDL. R5 AND R6 ARE IMPLEADED AS PER ORDER ON CMP 33026 OF 1997 DATED 22.10.1997

R1 TO R3 & R5 & R6 BY G.P. SRI. SOJAN JAMES
R4 BY ADV. SRI.M.K.DILEEP KUMAR

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 12/06/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NOS. 6693/1997,42165/1998, 9920/2000 & 9359/2004 IN OP 3692/1997

DISMISSED

12.6.2006 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE PHOTOCOPY OF JUDGMENT IN OP 4358 OF 1989 FILED BY THE PETITIONER BEFORE THE HON'BLE HIGH COURT DATED 29.5.1989

EXT.P2 TRUE COPY OF STATEMENT FILED BY THE EXECUTIVE ENGINEER IN C.C.C.NO. 16 OF 1992 DATED 1.2.1992

EXT.P3 TRUE PHOTOCOPY OF JUDGMENT DATED 17.2.1992 OF THIS HON'BLE COURT IN C.C.C.NO. 16 OF 1992

EXT.P4 TRUE COPY OF LAWYER NOTICE ISSUED TO THE RESPONDENTS DATED 23.9.1992

EXT.P5 TRUE COPY OF LETTER NO. A1-3029/89 DATED 10.12.1993 OF THE EXECUTIVE ENGINEER, IRRIGATION DIVISION, TRISSUR.

EXT.P6 TRUE COPY OF LETTER RECEIVED FROM THE EXECUTIVE ENGINEER, IRRIGATION DIVISION, TRISSUR NO. A1-3029/89 DATED 12.1.1994

EXT.P7 TRUE COPY OF LETTER FROM THE EXECUTIVE OFFICER, NENMANIKKARA PANCHAYAT DATED 3.1.1994

EXT.P8 TRUE COPY OF NOTICE DATED 22.1.1997 SENT BY THE PETITIONER'S COUNSEL TO THE RESPONDENTS.

EXT.P9 TRUE COPY OF LETTER DATED 29.1.1997 FROM THE EXECUTIVE ENGINEER, IRRIGATION DIVISION, TRISSUR (NO. A1-3029/89).

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

---

O.P. NO. 3692 OF 1997

---

Dated this the 12th day of June, 2006

JUDGMENT

Petitioners are in this Court a second round with the same complaint that on account of encroachment and misuse of Puthur Manali Diversions Canal, their three-crop paddy land is made unfit for cultivation. According to the petitioners, large number of farmers are affected in the area on account of indiscreet conversion of paddy land into garden land by filling and on account of various obstruction caused to the irrigation canal. I find from Ext.P1 that earlier Writ Petition filed by the petitioners was allowed by this Court with a direction to the respondents therein to restore and preserve the irrigation canal in-tact. Respondents appear to have accepted the judgment, but could not implement it in time, even though steps were taken by acquiring land for encroachers for rehabilitating them. Counsel for the petitioners submitted that Government have spent substantial amount and in view of the direction in Ext.P1 judgment, the claim of the petitioners and other similarly placed farmers is that irrigation canal should be restored and should be maintained at public cost. I have no doubt that petitioners are entitled to the relief, particularly because substantial amounts are stated to

have been spent by the Govt. for restoration of the canal. When the petitioners have approached this Court with contempt, this Court vide Ext.P3 judgment gave further opportunity to the respondents to comply with Ext.P1 judgment. However, it is not known as to what happened in the course of last nine years during which O.P. was pending. In the circumstances, O.P. is disposed of with direction to the Govt. to fund the project and restore and maintain the irrigation canal above referred for the benefit of the farmers. The District Collector will take appropriate action against the encroachers after issuing notice to them.

(C.N.RAMACHANDRAN NAIR)
Judge